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Attorney for Sean Daniel Schrader

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

Sean Daniel Schrader,
Debtor.

Vincent Wurster, an individual and
Tina Elston, an individual,

Plaintiff.

vs.

Sean Daniel Schrader,
Defendant.

Chapter 13

Case No. 17-30928-dwh13

Adversary Proceeding
No. 17-03086-dwh

DEFENDANT'S CONCISE STATEMENT OF
FACTS IN SUPPORT OF SUMMARY
JUDGMENT OF DISMISSAL OF PLAINTIFF'S
COMPLAINT

COMES NOW Defendant above-named, by Laura L. Donaldson, his attorney, and provides the following concise statement of facts in support of Defendant's Motion for Summary Judgment of Dismissal of Plaintiff's Complaint.

CONCISE STATEMENT OF FACTS

1. Defendant filed a Chapter 13 bankruptcy petition on March 16, 2017.
2. On March 19, 2017, the Clerk of the Court issued its notice to parties in interest designating a hearing and examination of the Chapter 13 debtor pursuant to §341(a). A copy of such §341(a) notice is attached hereto and incorporated herein by reference (Exh. A).

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3. Plaintiffs Vincent Wurster and Christine (Tina) Elston and their counsel, Mr. Eric Helmy were duly scheduled as claimholders in Defendant's bankruptcy petition. (BNC Notice, Exh. B) Defendant listed the debts to Wurster and Elston as disputed. They received both constructive and actual notice of the above-referenced Clerk's notice, which part relevant to this Motion set June 12, 2017 as the last day upon which a party in interest could commence an action challenging the Debtor's right to a discharge under §1328(f) or to dischargeability of certain debts by filing a Complaint for such relief with the bankruptcy clerk's office.

4. On April 25, 2017, Counsel for Plaintiffs objected to confirmation of Defendant's Chapter 13 Plan (Dkt No. 14). This Court denied the objection and granted confirmation entering the Order Confirming Plan on May 4, 2017 (Dkt No. 17).

5. The records of the Bankruptcy Court evidence that Plaintiff's complaint was filed on July 10, 2017. A copy of page 1 of Plaintiff's Complaint, which carries the court docket date of July 10, 2017 (Dkt. 21), is attached hereto and incorporated herein by this reference (Exh.C).

6. The Court's docket for this adversary proceeding further evidences the initial filing of Plaintiff's Complaint on July 10, 2017. A copy of such is attached hereto and incorporated herein by reference. (Exh. D)

7. Defendant filed and served his Answer to the Complaint, which incorporated his affirmative defense based on Plaintiffs untimely commencement of this adversary proceeding.

8. Plaintiffs have not sought an extension pursuant to Bk. Rules 4004 or 4007(c) of the time limit for commencement of this adversary proceeding. Plaintiffs' also failed to appear at the designated pre-trial conference or otherwise communicate with this Court to discuss furtherance of their position with respect to the Complaint.

9. Plaintiffs' adversary proceeding is untimely. There have been no facts or circumstances presented to this Court which would mitigate such untimely commencement, and

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that Plaintiffs' Complaint must be dismissed as a matter of law.

DATED this 30th day of August, 2017.

/s/ Laura L. Donaldson
Laura L. Donaldson, OSB# 022930
Attorney for Defendant

Kuni Donaldson, LLP
1975 SW 1st Ave., Ste H
Portland, OR 97201
(503) 227-3004

Page 3 - DEFENDANT'S CONCISE STATEMENT OF FACTS

Information to identify the case:

Debtor 1:	Sean Daniel Schrader	Social Security number or ITIN: xxx-xx-1944
	First Name Middle Name Last Name	EIN: _____
Debtor 2: (Spouse, if filing)	First Name Middle Name Last Name	Social Security number or ITIN: _____
United States Bankruptcy Court:	District of Oregon	EIN: _____
Case number:	17-30928-dwh13	Date case filed for chapter: 13 3/16/17

Official Form 309I**Notice of Chapter 13 Bankruptcy Case**

12/15

For the debtors listed above, a case has been filed under chapter 13 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read all pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors, the debtors' property, and certain codebtors. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

Confirmation of a chapter 13 plan may result in a discharge. Creditors who assert that the debtors are not entitled to a discharge under 11 U.S.C. § 1328(f) must file a motion objecting to discharge in the bankruptcy clerk's office within the deadline specified in this notice. Creditors who want to have their debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office by the same deadline. (See line 13 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at www.pacer.gov).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

	About Debtor 1:	About Debtor 2:
1. Debtor's full name	Sean Daniel Schrader	
2. All other names used in the last 8 years	fdba Premiere Motors	
3. Address	1845 SE Alder St. Hillsboro, OR 97123	
4. Debtor's attorney Name and address	LAURA L DONALDSON 1975 SW 1st Ave #H Portland, OR 97201	Contact phone (503) 227-3004
5. Bankruptcy trustee Name and address	Wayne Godare 222 SW Columbia St #1700 Portland, OR 97201	Contact phone (503) 972-6300
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at www.pacer.gov .	1001 SW 5th Ave #700 Portland, OR 97204	Office Hours 9:00 a.m. – 4:30 p.m. Contact phone 503-326-1500 Date: 3/17/17

For more information, see pages 2 & 3

7. Meeting of creditors Debtors must attend the meeting to be questioned under oath. In a joint case, both spouses must attend. Creditors may attend, but are not required to do so.	April 11, 2017 at 01:00 PM The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket. Photo ID is required. Debtors must also provide proof of reported social security numbers (for example, social security card; medical insurance card; pay stub; W-2 form; IRS form 1099; or Social Security Admin.report).	Location: Chapter 13 Trustee Office, 222 SW Columbia St., #1700, Portland, OR 97201
8. Deadlines The bankruptcy clerk's office must receive these documents and any required filing fee by the following deadlines.	Deadline to file a complaint to challenge dischargeability of certain debts: You must file: <ul style="list-style-type: none">• a motion if you assert that the debtors are not entitled to receive a discharge under U.S.C. § 1328(f) or• a complaint if you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4). Deadline for all creditors to file a proof of claim (except governmental units): Deadline for governmental units to file a proof of claim:	Filing deadline: 60 days after the first date set for the Meeting of Creditors Filing deadline: 7/10/17 Filing deadline: See Fed. Rule Bankr. Proc. 3002(c)(1)
Deadlines for filing proof of claim: A proof of claim is a signed statement describing a creditor's claim. A proof of claim form may be completed and filed at www.orb.uscourts.gov or any bankruptcy clerk's office. Please file proof of claim electronically at www.orb.uscourts.gov . No login or password is required. If you do not file a proof of claim by the deadline, you might not be paid on your claim. To be paid, you must file a proof of claim even if your claim is listed in the schedules that the debtor filed. Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.		
9. Filing of plan	Deadline to object to exemptions: The law permits debtors to keep certain property as exempt. If you believe that the law does not authorize an exemption claimed, you may file an objection.	Filing deadline: 30 days after the conclusion of the meeting of creditors
10. Creditors with a foreign address	If you are a creditor receiving a notice mailed to a foreign address, you may file a motion asking the court to extend the deadline in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.	
11. Filing a chapter 13 bankruptcy case	Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts according to a plan. A plan is not effective unless the court confirms it. You may object to confirmation of the plan and appear at the confirmation hearing. A copy or summary of the plan, if not enclosed, will be sent to you later, and if the confirmation hearing is not indicated on this notice, you will be sent notice of the confirmation hearing. The debtor will remain in possession of the property and may continue to operate the business, if any, unless the court orders otherwise.	
12. Exempt property	The law allows debtors to keep certain property as exempt. Fully exempt property will not be sold and distributed to creditors, even if the case is converted to chapter 7. Debtors must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office or online at www.pacer.gov . If you believe that the law does not authorize an exemption that debtors claimed, you may file an objection by the deadline.	
13. Discharge of debts	Confirmation of a chapter 13 plan may result in a discharge of debts, which may include all or part of a debt. However, unless the court orders otherwise, the debts will not be discharged until all payments under the plan are made. A discharge means that creditors may never try to collect the debt from the debtors personally except as provided in the plan. If you want to have a particular debt excepted from discharge under 11 U.S.C. § 523(a)(2) or (4), you must file a complaint and pay the filing fee in the bankruptcy clerk's office by the deadline. If you believe that the debtors are not entitled to a discharge of any of their debts under 11 U.S.C. § 1328(f), you must file a motion by the deadline to object to the debtors' discharge or the dischargeability of certain debts.	

14. Notice of Proposed Dismissal of Case	This case may be dismissed without further prior notice if (1) all plan payments are not current, (2) the debtors fail to complete the meeting of creditors set above, or (3) the debtors fail to timely file any documents and/or make fee payments as ordered by the Court, unless within 21 days of the date in line 6 either the debtor or trustee files a written objection to dismissal, setting forth specific grounds, and sends a copy to the non-filing party (i.e., debtors or trustee).
15. Objection to Confirmation	A creditor wanting to object to any provision of the debtors' plan must file a written objection with the Court showing service on the debtors within 14 days after the meeting of creditors concludes. Filing a proof of claim rejecting the plan, or motion for relief from the automatic stay, will not be considered an objection to the confirmation. See Local Bankruptcy Rule 3015-3(c) for additional details concerning confirmation of Chapter 13 plans.
16. Court Information and Legal Advice	Court Information is available at www.orb.uscourts.gov . For account numbers, etc. contact the debtor's attorney. Contact your own attorney with other questions and to protect your rights. The clerk's office staff is forbidden by law from giving legal advice.

United States Bankruptcy Court
District of Oregon

In re:
Sean Daniel Schrader
Debtor

Case No. 17-30928-dwh
Chapter 13

CERTIFICATE OF NOTICE

District/off: 0979-3

User: Admin.
Form ID: 3091

Page 1 of 2
Total Noticed: 19

Date Rcvd: Mar 17, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 19, 2017.

db +Sean Daniel Schrader, 1845 SE Alder St., Hillsboro, OR 97123-4928
tr +Wayne Godare, 222 SW Columbia St #1700, Portland, OR 97201-6652
smg +Dept of Justice, Division of Child Support, Attn: Bankruptcy Unit, POB 14670, Salem, OR 97309-5013
smg +US Attorney General, Department of Justice, 10th & Constitution NW, Washington, DC 20530-0001
101412906 +Christine Elston, 10916 Mundy Loss Rd., Buckley, WA 98321-9471
101412907 +Felicia Lee Schrader, 1845 SE Alder St., Hillsboro, OR 97123-4928
101412909 +Internal Revenue Service, Billy J. Williams, US District Attorney of Oregon, 1000 SW 3rd Avenue, #600, Portland, OR 97204-2936
101412911 +Mesa Clinical Labs, PO Box 1517, Pendleton, OR 97801-0410
101412912 +Mr. Eric Helmy, c/o NW Business Law LLC, 777 NW Wall St. #302, Bend, OR 97703-2760
101412913 NW Acute Care Specialists, PO Box 4979, Portland, OR 97208-4979
101412915 +Vincent Wurster, 10916 Mundy Loss Rd., Buckley, WA 98321-9471

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

aty E-mail/Text: laura@kunidonaldson.com Mar 18 2017 00:47:37 LAURA L DONALDSON,
1975 SW 1st Ave #H, Portland, OR 97201
smg EDI: ORREV.COM Mar 18 2017 00:33:00 ODR Bkcy, 955 Center NE #353, Salem, OR 97301-2555
smg +E-mail/Text: usaor.bankruptcy@usdoj.gov Mar 18 2017 00:48:15 US Attorney, US Attorney,
1000 SW 3rd Ave #600, Portland, OR 97204-2936
ust +E-mail/Text: ustpregion18.pl.ecf@usdoj.gov Mar 18 2017 00:47:53 US Trustee, Portland,
620 SW Main St #213, Portland, OR 97205-3026
101412905 EDI: RMSC.COM Mar 18 2017 00:33:00 Care Credit, c/o Synchrony Bank, PO Box 965035,
Orlando, FL 32896-5035
101412908 +EDI: IRS.COM Mar 18 2017 00:33:00 Internal Revenue Service, Caroline D. Cirolo,
US Attorney General, 950 Pennsylvania Ave. NW, Washington, DC 20530-0009
101412901 EDI: ORREV.COM Mar 18 2017 00:33:00 Oregon Department of Revenue, Attn: Bankruptcy Unit,
955 Center St NE #353, Salem, OR 97301-2555
101412914 E-mail/Text: bankruptcynotifications@unitusccu.com Mar 18 2017 00:47:42
Unitus Community Credit Union, c/o Steven Stapp, Pres./CEO, 1300 SW 6th Ave.,
Portland, OR 97201

TOTAL: 8

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

101412902* ++INTERNAL REVENUE SERVICE, CENTRALIZED INSOLVENCY OPERATIONS, PO BOX 7346,
PHILADELPHIA PA 19101-7346
(address filed with court: Internal Revenue Service, Special Procedures M/S 0240,
1220 SW Third Ave., Ste G-044, Portland, OR 97204-2871)
101412903* ++INTERNAL REVENUE SERVICE, CENTRALIZED INSOLVENCY OPERATIONS, PO BOX 7346,
PHILADELPHIA PA 19101-7346
(address filed with court: Internal Revenue Service, Special Procedures M/S 0240,
1220 SW Third Ave., Ste G-044, Portland, OR 97204-2871)
101412910* +Internal Revenue Service, PO Box 7346, Philadelphia, PA 19101-7346
101412904 ###+Balanced Healthcare Receivables, 141 Burke St., Nashua, NH 03060-4757

TOTALS: 0, * 3, ## 1

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

Addresses marked '++' were redirected to the recipient's preferred mailing address
pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.PR.2002(g)(4).

Addresses marked '##' were identified by the USPS National Change of Address system as undeliverable. Notices
will no longer be delivered by the USPS to these addresses; therefore, they have been bypassed. The
debtor's attorney or pro se debtor was advised that the specified notice was undeliverable.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Mar 19, 2017

Signature: /s/Joseph Speetjens

Eric Helmy
NW Business Law LLC
750 NW Charbonneau Dr., Suite 108
Bend, OR 97701
(503-224-9946
Eric@nwbizlaw.com
Counsel for Creditors VINCENT WURSTER and TINA ELSTON

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

VINCENT WURSTER, an individual, and)
TINA ELSTON, an individual,) Case No. 17-30928-dwh13
)
Creditors,)
)
v.) COMPLAINT IN ADVERSARY FOR
) DETERMINATION THAT DEBT IS
) NON-DISCHARGEABLE
Sean Daniel Schrader, an individual,)
)
Debtor.)
)

COME NOW Creditors Vincent Wurster and Tina Elston, by and through their attorney of record, and allege as follows:

COMMON ALLEGATIONS

- (1) This is an adversary proceeding to determine the dischargeability of a debt pursuant to Bankruptcy Rules 4007 and 7001(6).
- (2) The above named debtor, Debtor herein, filed a petition for relief under Chapter 13 of title 11, United States Code.
- (3) Debtor is indebted to Creditors in an amount to be determined at trial and/or in further proceedings by this Court, per appropriate discovery and expert testimony. To a substantial extent in an amount to be determined in further proceedings, this debt is founded upon a claim that is excepted from a discharge in bankruptcy. Said debt arose as a result of the facts alleged below:
- (4) Creditors Vincent and Christine Elston (individually and/or collectively "Creditors") are

COMPLAINT IN ADVERSARY

Exh. C - Page 1 of 1

**U.S. Bankruptcy Court
District of Oregon
Adversary Proceeding #: 17-03086-dwh**

Assigned to: Bankruptcy Judge David W Hercher

Date Filed: 07/10/17

Lead BK Case: 17-30928

Lead BK Title: Sean Daniel Schrader

Lead BK Chapter: 13

Demand:

Nature[s] of Suit: 67 Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny
68 Dischargeability - 523(a)(6), willful and malicious injury

Plaintiff

Christine Elston

10916 Mundy Loss Rd.

Buckley, WA 98321

United States

253-332-5493

SSN / ITIN: xxx-xx-9004

represented by **ERIC HELMY**

NW Business Law LLC

777 NW Wall St No. 302

Bend, OR 97701

503-224-9946

Email: eric@nwbizlaw.com

LEAD ATTORNEY

Plaintiff

Vincent Wurster

10916 Mundy Loss Rd.

Buckley, WA 98321

United States

253-332-5493

SSN / ITIN: xxx-xx-5890

represented by **ERIC HELMY**

(See above for address)

LEAD ATTORNEY

V.

Defendant

Sean Daniel Schrader

27451 SE Fireman Way

Boring, OR 97009

SSN / ITIN: xxx-xx-1944

represented by **LAURA L DONALDSON**

1975 SW 1st Ave #H

Portland, OR 97201

(503) 227-3004

Email: laura@kunidonaldson.com

Filing Date	#	Docket Text
07/10/2017	•1 (5 pgs)	Adversary case 17-03086. Complaint by Christine Elston, Vincent Wurster against Sean Daniel Schrader. \$350 Filing Fee Paid. Nature of Suit:(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(68 (Dischargeability - 523(a)(6), willful and malicious injury))(HELMY, ERIC) (Entered: 07/10/2017)
07/11/2017	•2 (3 pgs)	Summons Issued for service on Sean Daniel Schrader Date Issued 7/11/2017, Answer Due 8/10/2017 Complaint Pre-Trial Hearing Set for 08/29/2017 at 10:00 AM by Telephone Hearing. Scheduling Order due 09/1/2017. (lew) (Entered: 07/11/2017) D - Page 1 of 1